

Attachment IV

Guidelines for Mandated Partnership Plans

The amendments that authorize the extension and funding for the Drug Court Partnership require: (1) that the existing Partnership Drug Court grantees modify their eligibility requirements to allow only felons to participate; (2) that the existing Partnership Drug Court grantees identify the methods that they will utilize to assure that defendants participating in the program would be highly likely to be sent to State Prison if they fail to complete the treatment program; (3) that the existing Partnership Drug Court grantees identify the specific means by which they will verify through data reports cost savings in terms of prison bed days saved.

Initial sentencing as well as sentencing on revocation of probation is discretionary with the Judge and must remain discretionary.

These Guidelines are not intended to be exclusive, but to identify potential methods to identify those felony clients most likely to be sent to prison and the manner in which prison bed days saved may be identified.

Examples used in these Guidelines are for the purposes of demonstration and simplification only, and to give guidance to local Partnership Drug Courts in carrying out the purposes of the Partnership Program, as amended. It is recognized that sentencing practices, procedures and language vary from Jurisdiction to Jurisdiction, and Judges are in no way constrained to follow an indicated sentencing “script.” These Guidelines are written in that spirit of giving practical meaning to the intent of the Legislature.

- A. Defendant was granted probation at sentencing and received a “suspended prison sentence” at the time of entry into drug court, with a specific condition of probation that he/she enter and complete the drug court treatment program.

The length of the suspended sentence will be documented on the record, and available for review.

Please note that in this example, and all others, if the defendant enters the Partnership Drug Court with more than one new case and/or probation violation, all cases that are considered in the disposition should be noted

Example: (1) Judge imposes suspended prison sentence at time of sentence on new charge or violation of probation under standard sentencing practices for the Jurisdiction; and indicating the suspended sentence on the record (or in the usual and customary manner of the Court and Jurisdiction).

- B. Defendant was eligible for Proposition 36 and has suffered two or more drug-related violations of probation, or at least one violation of a non-drug-related

condition of probation, and is no longer eligible for Proposition 36, or will no longer be eligible for Proposition 36 (if he/she commits one additional drug-related or non-drug-related violation of probation), and the defendant is referred to and enters the drug court, consistent with the provisions of PC Sec. 1210.

The Judge will indicate on the record, the length of the prison sentence that the defendant will serve if he/she commits one further violation of probation and is sentenced according to law.

Example: (1) After a hearing (or waived hearing), the Judge finds the defendant in violation of a probation and that the violation is a third drug-related violation. The Judge further finds that the defendant is disqualified from further probation under Sec. 1210.1 (Proposition 36), and, then, (reinstates, if necessary, and) modifies probation, conditioned on the defendant entering and successfully completing the drug court treatment program, and indicating on the record (or in the usual and customary manner of the Court and Jurisdiction) the length of the prison term that will be imposed if the defendant is again found in violation of probation for failing to successfully complete the drug court treatment program.

- C. The defendant enters or is referred to the Drug Court after being found in violation of probation, with the condition that if the defendant does not successfully complete the drug court treatment program he/she will be sent to prison.

The Judge will indicate on the record, the length of the prison sentence that the defendant will serve if he/she commits one further violation of probation and is sentenced according to law.

Example: (1) After a hearing (or waived hearing), the Judge finds the defendant in violation of probation, modifies probation conditioned on the defendant successfully completing the drug court treatment program, and indicating the length of the prison term if the defendant is again found in violation of probation for failing to successfully complete the drug court treatment program.

- D. The defendant is referred to the Drug Court or enters Drug Court as the result of a "plea bargain" or "sentence bargain" under which the defendant is granted formal probation with the express condition that he/she must complete the drug court treatment program, and if the defendant does not successfully complete the program, the defendant may be sentenced to state prison for a specific term that will be stated on the record by the Judge.

Example: (1) Judge meets with defense attorney, prosecutor and any other member(s) of the team deemed appropriate, and indicating on the record (or in the usual and customary manner of the Court and Jurisdiction) notes the plea or sentence bargain reached with the consent of the defendant the length of the prison term that will be imposed if the defendant , who will be placed on Probation, and as a condition of Probation be required to participate in and successfully complete the drug court treatment program, is found in violation of probation for failure to complete the program (e.g. if he/she fails to comply with the terms of probation, the defendant will be sentenced to State Prison for the mid-term of “x” years [months], no more nor less.);